

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

T. J. SUTTON,

Petitioner,

Case Number: 2:09-CV-10616

v.

HONORABLE NANCY G. EDMUNDS

LLOYD RAPELJE,

Respondent.

**ORDER DENYING PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL
AND MOTION FOR JUDGMENT AS A MATTER OF LAW**

Petitioner T. J. Sutton, a state inmate currently incarcerated at the Thumb Correctional Facility in Lapeer, Michigan, has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Now before the Court are Petitioner's Motion for Appointment of Counsel and Motion for Judgment as a Matter of Law.

There exists no constitutional right to the appointment of counsel in civil cases, and the court has broad discretion in determining whether counsel should be appointed. *Franklin v. Rose*, 765 F.2d 82, 85 (6th Cir. 1985) (holding that a habeas petitioner is not entitled to the appointment of counsel to assist in habeas corpus proceedings); *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) (“[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right.”) (internal quotation omitted). A habeas petitioner may obtain representation at any stage of the case “[w]henever the United States magistrate or the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B). The Court determines that

the interests of justice do not require appointment of counsel.

Petitioner also has filed a Motion for Judgment as a Matter of Law. He seeks relief under Federal Rule of Civil Procedure 50, which applies only to trials. *See generally* Fed. R. Civ. P. 50. Therefore, it is inapplicable to the instant habeas corpus proceeding.

Accordingly, **IT IS ORDERED** that Petitioner's Motion for Appointment of Counsel [dkt. # 15] and Motion for Judgment as a Matter of Law [dkt. # 17] are **DENIED**.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: August 24, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 24, 2011, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager